

October 17, 2025
Dept. 9
Tentative Rulings

1.	22CV0884	Rolando Sanchez vs. General Motors, LLC
Motion Hearing		

TENTATIVE RULING #1:

MATTER CONTINUED TO NOVEMBER 7, 2025 AT 8:30 A.M. IN DEPARTMENT NINE.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

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2.	22CV0979	CARTER et al v. PLACER VILLAGE APARTMENTS et al
Judgment on the Pleadings		

The Notice does not comply with Local Rule 7.10.05. Repeated violations will be grounds for sanctions subject to Local Rule 7.12.13.

This action arises from a claim by Alexandria Carter, Joseph Barret, and minors Skylar Allen, Ivey May Barret, and Kaleb Carter (collectively “Plaintiffs”) related to their occupancy of an apartment unit at Placer Village Apartments. The Plaintiffs assert that their apartment unit had a bed bug issue. The Plaintiffs additionally sued Highlander Termite and Pest Control (“Highlander”) who performed pest control services at the Carter Plaintiffs’ apartment unit when engaged to do so by the owner and property manager of Placer Village Apartments.

Meet and Confer

“(a) Before filing a motion for judgment on the pleadings pursuant to this chapter, the moving party shall meet and confer in person or by telephone with the party who filed the pleading that is subject to the motion for judgment on the pleadings for the purpose of determining if an agreement can be reached that resolves the claims to be raised in the motion for judgment on the pleadings. If an amended pleading is filed, the responding party shall meet and confer again with the party who filed the amended pleading before filing a motion for judgment on the pleadings against the amended pleading. (Code of Civil Procedure, § 439(a))

“A determination by the court that the meet and confer process was insufficient is not grounds to grant or deny the motion for judgment on the pleadings.” (Code of Civil Procedure, §439(a)(4))

In the tentative ruling for the initial hearing on this motion, the court noted that the Gamboa Declaration mentioned three e-mails sent in an effort to meet and confer, but no telephone or in-person efforts, as required by Code of Civil Procedure section 439, subdivision (a). The hearing was continued to Friday, October 10, 2025, at 8:30 AM in Department 9, with Highlander directed to file a status update before September 26, 2025 to address the meet and confer efforts and whether there is still a need for the Court to address the Motion.

On September 25, 2025, Highlander filed a declaration addressing its meet and confer efforts. Per the declaration, Highlander made several attempts to set up a phone call with counsel with Plaintiff. Plaintiff offered a time window for a phone call, but Highlander’s counsel

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did not respond prior to this date. Thereafter, Highlander repeatedly contacted Plaintiff to set up a phone call, with no response. The court finds that Highlander has satisfied its responsibility to attempt to meet and confer with Plaintiff.

Discussion

Upon review of the complaint, Plaintiffs make no allegations specific to Highlander. Rather, the allegations primarily relate to the owner and property manager of the apartment complex. Additionally, the complaint alleges violations related to the habitability of the apartment, which apply to a landlord, not a pest control company like Highlander. As such, these causes of action fail as matter of law. Understanding the liberal public policy in favor of granting leave to amend, the court must consider whether to grant leave to amend at least to those causes of action which do not rely upon a landlord-tenant relationship to succeed. However, Plaintiffs did not file an opposition to the motion, which the court can deem as a concession that the motion is meritorious. The court finds the failure to file an opposition may be construed as an indication that Plaintiffs have no viable means to amend the causes of action as to Highlander.

The court grants the motion for judgment on the pleadings, finding that the complaint fails to set forth facts sufficient to constitute any of the pled causes of actions against Highlander. The court deems Plaintiffs' failure to oppose the motion as a concession that the motion is meritorious and that there is no viable means to amend the complaint as to Highlander. If Plaintiffs are still seeking leave to amend, they are directed to request oral argument to explain how they could amend the complaint.

TENTATIVE RULING #2:

MOTION FOR JUDGMENT ON THE PLEADINGS IS GRANTED WITHOUT LEAVE TO AMEND. IF PLAINTIFFS ARE SEEKING LEAVE TO AMEND, THEY ARE DIRECTED TO REQUEST ORAL ARGUMENT TO EXPLAIN HOW THEY COULD AMEND THE COMPLAINT.

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3.	24CV0144	Axel Van Skike, et al. vs. County of El Dorado et al.
Compromise: Minor Claim		

This is a Petition to compromise a minor's claim. The Petition states the minor sustained significant head trauma, abdomen and femur injuries from an auto accident in 2023. A copy of the accident investigation report was filed with the Petition, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of \$1,596,000.00.

The Petition states the minor incurred \$347,400.15 in medical expenses that would be deducted from the settlement. Copies of invoices for the claimed medical expenses are to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the minor is determined to have a disability that substantially impairs her ability to provide for her own care and custody and constitutes a substantial disability. A doctor's report concerning the minor's condition and prognosis of recovery is attached, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney requests attorney's fees in the amount of \$319,200.00, which represents 20% of the gross settlement amount. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition does include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c). The minor's attorney also requests reimbursement for costs in the amount of \$191,129.49. There are **no** copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the \$4,155.49 due to the minor, the Petition requests that they be deposited into First Party Special Needs Trust, subject to withdrawal with court authorization. See attachment 18(b)(4), which includes the name and address of the depository, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A(7). The court uses its discretion to waive the minor's presence at the hearing, but the court orders that the guardian ad litem be present, which may be by remote appearance.

TENTATIVE RULING #3:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, OCTOBER 17, 2025, IN DEPARTMENT NINE.

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4.	24CV2404	Demtech Services, Inc. vs. DM Solutions, Inc. et al.
Motion Hearing		

This matter is before the court for hearing on two pending motions, one filed by Plaintiff and the other filed by Defendants. On June 16, 2025, Defendants filed their Motion for Reconsideration and Declarations of Timothy T. Huber and Pamela M. Schuur in support thereof. Plaintiff filed its opposition papers and a Request for Judicial Notice on July 21st. Defendants filed their Reply on July 24th.

On July 14, 2025, Plaintiff filed a Motion to Compel Defendant David McLaury's Responses to Plaintiff's Second Set of Form Interrogatories and Third Set of Requests for Production of Documents; Request for Sanctions. Defendant filed his opposition on July 23rd, and Plaintiff filed its reply on August 8th.

Request for Judicial Notice

Plaintiff requests the court take judicial notice of the following: (1) DemTech's previously filed Memorandum of Points and Authorities in support of DemTech's Motion to Compel Discovery Responses filed on April 17, 2025; (2) Declaration of Jacqueline Vu in Response to Declaration of Pamela Schuur in Opposition to Plaintiff DemTech Services' Motions to Compel; (3) The court's June 5, 2025 tentative ruling; and (4) The court's June 6, 2025 Minute Order adopting the tentative ruling.

Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code sections 451, 452, and 453 govern the circumstances in which judicial notice of a matter may be taken. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed, including "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States."

Section 452 provides that the court "may" take judicial notice of the matters listed therein, while Section 453 provides a caveat that the court "shall" take judicial notice of any matter "specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request...to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter." Cal. Evid. Code § 453.

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Here, Plaintiff has given the opposing party sufficient notice of its request for judicial notice and Defendants have not filed an opposition or objection. Plaintiff has further provided the court with sufficient information to enable it to take judicial notice. Having satisfied both prongs of Evidence Code § 453, the request for judicial notice is granted in its entirety.

Motion for Reconsideration

By way of the present motion, Defendants seek reconsideration of the court's June 6, 2025 orders which granted Plaintiff's discovery motions. The court ordered responses to all of the subject discovery, awarded monetary sanctions, and ordered the Requests for Admission as to David McLaury be deemed admitted. On June 5th, the court issued its tentative ruling, as per its customary procedures and the Local Rules. Having received no objection, the tentative ruling became the order of the court on June 6th.

Defendants request reconsideration on the basis that they believe the court did not consider the Declaration of Pamela Schuur which was filed on June 4th. Their proposed new facts are twofold. First, they state the parties are still negotiating a protective order pursuant to which any discovery would be produced. And second, they argue that Plaintiff's mandatory trade secret disclosure is inadequate. They request the June 6th orders be vacated and a further hearing be set approximately 120 days out.

Plaintiff opposes the motion citing procedural deficiencies, as well as Defendants' failure to provide an adequate explanation for not opposing the discovery motions or objecting to the tentative ruling. Moreover, Plaintiff argues that the issues regarding the trade secret disclosure were covered in its moving papers on the discovery motions, so the court was aware of that fact at the time of its ruling. Plaintiff requests the motion for reconsideration be denied.

Any party may move for reconsideration of a court's order where the moving party (1) has been affected by the court's order; and (2) moves for reconsideration within 10 days of the service upon the moving party written notice of the entry of the order. Cal. Civ. Pro. § 1008. The moving party must establish "...new or different facts, circumstances, or law..." that would warrant reconsideration of the order; and such facts, circumstances or law shall be set forth in a written affidavit including "...what application was made before, when and to what judge, [and] what order or decisions were made..." *Id.* The moving party must also provide a satisfactory explanation why it was unable to, with reasonable diligence, present the new or different facts or law earlier. *Yolo County Dept. of Child Support Services v. Myers*, 248 Cal. App. 4th 42, 50 (2016); *See also New York Times Co. v. Sup. Ct.*, 135 Cal. App. 4th 206, 212-213 (2005).

Defendants' motion fails to provide a satisfactory explanation for their failure to bring their proposed new or different facts earlier. In fact, there appears to be no real explanation

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other than a lack of reasonable diligence on the part of counsel due to their calendaring errors and simple failure to check the tentative rulings. The court does not find this to be justifiable grounds to reconsider its prior ruling therefore the motion for reconsideration is denied.

While Defendants identify their motion as a motion for reconsideration, they include arguments regarding a request to set aside pursuant to Civil Procedure section 473(b). It is unclear if this request is being made due to the procedural deficiencies, however, even if the court were to reach this issue on the merits it would be denied.

Civil Procedure Section 473(b) governs the circumstances in which a party may be relieved of the terms of a judgment, dismissal, order or other proceeding in instances of mistake, inadvertence or excusable neglect. Cal. Civ. Pro. § 473(b). The statute addresses instances in which relief is mandatory as well as circumstances giving rise to discretionary relief. While the mandatory provisions only apply to defaults and default judgments, the discretionary portion of the statute has a much broader application. See *Las Vegas Land & Development Co., LLC v. Wilkie Way, LLC*, 219 Cal. App. 4th 1086 (2013) (Mandatory provisions of Section 473(b) apply only to defaults).

Generally speaking, "...the discretionary relief provision of Section 473 only permits relief from attorney error 'fairly imputable to the client, i.e., mistakes anyone could have made.' [Citations]. 'Conduct falling below the professional standard of care, such as failure to timely object or to properly advance an argument, is not therefore excusable. To hold otherwise would be to eliminate the express statutory requirement of excusability and effectively eviscerate the concept of attorney malpractice.' [Citation]." *Zamora v. Clayborn Contracting Group, Inc.*, 28 Cal. 4th 249 (2002) citing *Garcia v. Hejmadi*, 58 Cal. App. 4th 674, 682 (1997). Numerous cases have found that an attorney's conduct falling below the professional standard of care is not grounds to vacate a resulting judgment under Section 473(b). See *Carroll v. Abbott Laboratories, Inc.*, 32 Cal. 3d 892 (1982) (conduct falling below the professional standard of care is generally considered inexcusable); See also *Garcia v. Hejmadi*, 58 Cal. App. 4th 674, 682 (1997)["[t]he Legislature did not intend to eliminate attorney malpractice claims by providing an opportunity to correct all the professional mistakes an attorney might make in the course of litigating a case"].

Defense counsel's failure to calendar the motions and failure to timely object to the tentative ruling fall squarely within the purview of *Garcia v. Hejmadi, supra*, which found that such failures are not grounds to set aside a court order. Counsel was not surprised because service was improper, or because of some other failing that was no fault of their own. Instead, they simply failed to calendar the motions and thus failed to assert arguments in opposition thereof. Even if it could be argued that the failure to calendar the motion was a mistake that

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“anyone could have made,” Counsel’s lack of diligence did not stop there. They still failed to check the tentative ruling and oppose it. For these reasons, the request to set aside the orders, to the extent one is being made, is also denied.

Motion to Compel

Plaintiff filed its motion requesting an order compelling Defendant David McLaury’s responses to Form Interrogatories (Set Two), Requests for Admission (Set Two), and Requests for Production of Documents (Set Three) (collectively the “discovery requests”) and for sanctions in the amount of \$1,732.50. The discovery requests were served on March 28, 2025 thereby making responses due on April 30th. As of the filing of the motion, no responses had been served and no requests for extension were made.

According to Defendant, full and complete verified responses, without objections, were served on July 23, 2025. Defendant requests the motion be dropped from calendar and no monetary sanctions awarded.

While Plaintiff concedes that responses were served after the filing of the motion, it still requests monetary sanctions.

Given that responses to the discovery requests have already been served, without objections and without withholding documents, the court finds the request to compel responses to be moot therefore the court declines to rule on it.

Regarding the request for monetary sanctions, sanctions are mandatory for one who “unsuccessfully *makes or opposes* a motion to compel a response...unless [the court] finds that one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust” Cal. Civ. Pro. §2030.290 (interrogatories), § 2031.300(c)(requests for production) & § 2033.280(c)(requests for admission). In all other circumstances, the imposition of discovery sanctions is permissive. This includes instances where there has been no opposition and discovery responses were served after the filing of the motion. Cal. Rule of Ct., Rule 3.1348(a).

Where sanctions are awarded, the amount imposed is to include “...the reasonable expenses, including attorney’s fees, incurred by anyone as a result of...” the conduct of the party subject to sanction. Cal. Civ. Pro. 2023.030(a) & 2023.020. Additionally, the court is obligated to “...impose a one-thousand-dollar (\$1,000) sanction, payable to the requesting party...” if the court finds that the noncompliant party did not respond in good faith to a request for production of documents or failed to make a reasonable good faith attempt to informally resolve a discovery dispute. Cal. Civ. Pro. § 2023.050(a).

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Here, while responses to the discovery requests have been served, it remains that they were not served until after Plaintiff was forced to incur the time and expense associated with preparing and filing its motion to compel. Defendant has not provided any substantial justification for his failure to timely serve the responses, nor has he provided the court with any reason why the imposition of sanctions would be unjust. Accordingly, Plaintiff is awarded \$2,732.50 in monetary sanctions. This covers attorney's fees and costs incurred by Plaintiff as a result of the untimely responses, as well as an additional \$1,000 pursuant to § 2023.050. Sanctions are subject to increase in the event of oral argument and Plaintiff incurs additional costs associated therewith.

Defendant Demtech Services, Inc. is ordered to pay Plaintiff \$2,732.50 no later than November 17, 2025.

TENTATIVE RULING #4: PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IS GRANTED IN ITS ENTIRTY. THE MOTION FOR RECONSIDERATION IS DENIED. TO THE EXTENT A REQUEST TO SET ASIDE THE JUNE 6TH ORDERS IS BEING MADE, THE REQUEST IS DENIED. THE REQUEST FOR AN ORDER COMPELLING DISCOVERY RESPONSES IS MOOT AND THEREFORE THE COURT DECLINES TO RULE ON IT. DEFENDANT DEMTECH SERVICES, INC. IS ORDERED TO PAY PLAINTIFF \$2,732.50 NO LATER THAN NOVEMBER 17, 2025.

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5.	25CV2119	In the Matter of Vince Vilma, LLC
Transfer of Structured Settlement		

Prior to approving a petition for the transfer of payment rights, this court must make express written findings pursuant to Insurance Code section 10139.5, including the following:

1. That the transfer is in the best interests of the Payee, taking into account the welfare and support of Payee's dependents. See Exhibit C.
2. That the Payee has been advised in writing by the Petitioner to seek independent professional advice and has either received that advice or knowingly waived in writing the opportunity to receive that advice. This finding is supported by Exhibit A and D to the Petition. See also, Petition at pages 10 and 30.
3. That the transferee has complied with the notification requirements and does not contravene any applicable statute or the order of any court or government authority. See Exhibits A and B.
4. That the transfer does not contravene any applicable statute or the order of any court or government authority. See Petition ¶ 12.

In addition to the express written findings required by the applicable statutes, Cal. Ins. Code § 10139.5(b) requires the court to determine whether, based on the totality of the circumstances and considering the payee's age, mental capacity, legal knowledge, and apparent maturity level, the proposed transfer is fair and reasonable, and in the payee's best interests. The court may deny or defer ruling on the petition if the court believes that the payee does not fully understand the proposed transaction, and/or that the payee should obtain independent legal or financial advice regarding the transaction.

The Petition submitted generally contains the information required by the Insurance Code for court approval of this transaction. However, some information required by the statutes is missing, such as:

1. Whether, within the past five years, the payee has attempted to enter into any such agreement with this Petitioner or any other entity that were denied by a court, or that were withdrawn or dismissed prior to a determination on the merits.

TENTATIVE RULING #5:

APPEARANCES REQUIRED ON FRIDAY, OCTOBER 17, 2025, AT 8:30 AM IN DEPARTMENT NINE.

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6.	24CV2461	Bank of America, N.A. vs. Kassie A Curtis
Motion To Enter Judgment and Dismissal		

The motion of Plaintiff, Bank of America, N.A., for an order vacating the judgment entered on May 23, 2025, in Department 9. Upon review of the motion, the court finds good cause to grant the request. The judgment entered on December 27, 2024 is hereby vacated. The attached order of dismissal without prejudice shall be entered on October 17, 2025.

TENTATIVE RULING #6:

MOTION TO ENTER JUDGMENT AND DISMISSAL IS GRANTED.

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7.	23CV0559	Liberty Mutual Insurance Company, a Corporation vs. Galen Hunter Dillman
Motion Hearing		

On August 26, 2025, Plaintiff filed a motion for judgment on the pleadings as to Defendant's answer. Defendant did not file an opposition. Per the declaration of counsel, Plaintiff's counsel attempted to meet and confer with Defendant by e-mail and by phone, but he failed to respond. Plaintiff alleges that they are entitled to motion for judgment on the pleadings based on deemed admission, through which Defendant has conclusively deemed to have admitted liability for collision that forms the basis for this action. Given the admissions are conclusively deemed to be admitted, the court finds that there is no meaningful way for Plaintiff to amend his answer.

Plaintiff further requests compensatory damages plus interest. While through the deemed admission Defendant admits his liability, he does not admit the amount of damages. Absent authority to the contrary, the court finds that it would need to hold a trial on the issue of damages. The court orders appearances for the parties to provide input on how to proceed.

TENTATIVE RULING #7:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, OCTOBER 17, 2025, IN DEPARTMENT NINE.

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8.	PC20200069	Robert Burnley v. Barbara Erb
Motion Hearing		

On August 28, 2025, Defendants filed a Motion to Dismiss Plaintiffs' Fifth Amended Complaint. A Request for Judicial Notice was filed concurrently therewith. Plaintiffs opposed the pending motion on October 2, 2025. Plaintiffs also filed a Request for Judicial Notice with their opposition papers. Defendants filed their Reply on October 8th.

Requests for Judicial Notice

Defendants request the court take judicial notice of Plaintiffs' original/initial Complaint in this matter filed on February 5, 2020. They also request judicial notice of the California Judicial Council Emergency Rules Related to Covid-19. Copies of both documents have been provided to the court and to Plaintiffs.

Plaintiffs request judicial notice of the following: (1) Complaint brought by the Burnley Plaintiffs in Case No. PC202000069; (2) Complaint brought by Bowman Plaintiffs in Case No. PC20200539; (3) Fifth Amended Complaint filed by Burnley Plaintiffs in Case No. PC202000069; and (4) Stipulation of all parties that was filed in both actions to consolidate them for the purposes of discovery only. Copies of all subject documents were provided to the court and opposing counsel.

Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code Sections 451, 452, and 453 govern the circumstances in which judicial notice of a matter may be taken. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed, including "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States."

While the language of Section 452 is permissive, Section 453 provides a caveat that the court "shall" take judicial notice of any matter "specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request...to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter." Cal. Evid. Code § 453.

The court finds that each party has given the other sufficient notice of the requests and provided sufficient information for the court to take judicial notice as to all documents. As such, both requests for judicial notice are granted as to all of the aforementioned documents.

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Motion to Dismiss

The original Complaint in this matter was filed on February 5, 2020. While the Fifth Amended Complaint (which is currently the operative version of the Complaint) was filed on July 15, 2022, ultimately this action has been pending since the February 2020 date. In the interim, Jeff and Carrie Bowman brought a separate action against the Gold River Homeowners Association (the “Bowman Action”). The parties stipulated to consolidate both cases for purposes of discovery only. The Bowman Action did not resolve until August of 2025.

“An action *shall* be brought to trial within five years after the action is commenced against the defendant.” Cal. Civ. Pro. § 583.310 (emphasis added). ““The purpose of the statute is...to prevent *avoidable* delay for too long a period. It is not designed arbitrarily to close the proceeding at all events in five years....” Moran v. Sup. Ct., 35 Cal. 3d 229, 237 (1983). In furtherance of that intention, Civil Procedure § 583.360 allows for tolling of the statute during a time when it was “impossible, impracticable, or futile” to bring the matter to trial. Cal. Civ. Pro. § 583.340. “What is impossible, impracticable or futile must be determined in light of all the circumstances...[Citations.] The critical factor in applying these exceptions to a given factual situation is whether the plaintiff exercised reasonable diligence in prosecuting his or her case.” *Moran, Supra*, 35 Cal. 3d at 237.

Here, Plaintiffs argue that it was impossible to bring this matter to trial without a determination on the Bowman Action first. Yet Plaintiffs fail to establish why the Bowman Action and the present action were so inextricably intertwined that this action could not be brought to trial in its own right. Plaintiffs further argue that the consolidation of discovery made it impossible to bring this action to trial. However, they have provided no reason why the discovery could not have been completed in a timely manner sufficient to bring this case to trial within the statutory timeframe. In light of the foregoing, the motion to dismiss for failure to prosecute is granted.

TENTATIVE RULING #8: THE REQUESTS FOR JUDICIAL NOTICE ARE BOTH GRANTED WITH RESPECT TO EACH OF THE REQUESTED DOCUMENTS. THE MOTION TO DISMISS PLAINTIFFS’ ACTION FOR FAILURE TO PROSECUTE IS GRANTED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

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9.	24CV0902	Wells Fargo, N.A. vs. Amanda Fogelman
Motion to Compel & Motion to Deem Matters Admitted		

Plaintiff brings a Motion to Compel Further Discovery Responses to Form Interrogatories, Special Interrogatories, Request for Production of Documents, and a Motion to Deem the Truth of the Matters in the Request for Admissions Admitted.

On June 3, 2025, Plaintiff sent a set of discovery request to Defendant pursuant to Code of Civil Procedure section 2033.280 et seq. consisting of a Requests for Admissions, set one, which were served on Defendant by mail. To date, no responses have been received by Plaintiff.

Plaintiff sent a meet and confer letters to Defendant, to which she did not respond. The court grants the Motion to Deem Matters Admitted.

Monetary sanctions are required to be imposed against the unsuccessful party in a motion to compel; however, Plaintiff requests that the sanctions be waived. As such, the court declines to grant sanctions.

TENTATIVE RULING #9:

MOTION TO DEEM THE TRUTH OF THE MATTERS IN THE REQUEST FOR ADMISSIONS ADMITTED IS GRANTED. THE COURT DECLINES TO GRANT SANCTIONS.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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10.	25CV0172	Donald L. Austin et al. vs. Greg Hansen et al
Motion Hearing		

TENTATIVE RULING #10:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, OCTOBER 17, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

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11.	25CV1892	Matter of Harmonee Loscutoff
Compromise: Minor Claim		

This is a Petition to compromise two minor's claims.

Nevaeh

The Petition states the minor sustained soreness in her ribs, lower back, and left arm, resulting from an auto accident in 2024. A copy of the accident investigation report was filed with the Petition, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of \$5,000.00.

The Petition states the minor incurred \$926.34 in medical expenses that would be deducted from the settlement. Copies of invoices for the claimed medical expenses are attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the minor has fully recovered and there are no permanent injuries. The minor was seen once at the Emergency Room on the date of the accident. A doctor's report concerning the minor's condition and prognosis of recovery is attached as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney requests attorney's fees in the amount of \$1,000.00, which represents 25% of the gross settlement amount. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition does include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c).

The minor's attorney also requests reimbursement for costs in the amount of \$546.34. There are copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the \$2,527.32 due to the minor, the Petition requests that they be paid to the parent of the minor, without bond, on the terms and under the conditions specified in Probate Code §§ 3401-3402. The name and address of the parent are specified in attachment

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18(b)(5). No specification of the amount of money is stated. Such information is required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A(7).

The court uses its discretion to waive the minor's presence at the hearing.

HARMONEE

The Petition states the minor sustained soreness in her ribs, lower back. And left arm, resulting from an auto accident in 2024. A copy of the accident investigation report was filed with the Petition, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of \$5,000.00.

The Petition states the minor incurred \$926.34 in medical expenses that would be deducted from the settlement. Copies of invoices for the claimed medical expenses are attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the minor has fully recovered and there are no permanent injuries. The minor was seen once at the Emergency Room on the date of the accident. A doctor's report concerning the minor's condition and prognosis of recovery is as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

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The minor's attorney also requests reimbursement for costs in the amount of \$546.34. There are copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the \$2,527.32 due to the minor, the Petition requests that they be paid to the parent of the minor, without bond, on the terms and under the conditions specified in Probate Code §§ 3401-3402. The name and address of the parent are specified in attachment 18(b)(5). No specification of the amount of money is stated. Such information is required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A(7).

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The court uses its discretion to waive the minor's presence at the hearing.

TENTATIVE RULING #11:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, OCTOBER 17, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

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12.	24CV0860	Robert F. Wilson et al vs. Tetra Tech, Inc. et al
Motion Hearing		

Pursuant to Code of Civil Procedure section 437c, defendants Tetra Tech, Inc. and Brian P. Chisholm (collectively, “defendants”) move for summary judgment, or in the alternative summary adjudication, on plaintiffs Robert Wilson’s and Mary Lou K. Wilson’s (collectively, “plaintiffs”)¹ complaint.

1. Background

This is a personal injury action arising from a motorcycle versus vehicle accident that occurred on July 29, 2022, on a two-lane divided road. Plaintiff Robert was operating the motorcycle with his wife, plaintiff Mary Lou, riding passenger. Defendant was operating a Toyota 4Runner. Defendant intended to make a left turn but aborted due to a fast approaching vehicle behind him, activating his right turn signal and entering the right shoulder. Plaintiffs moved onto the shoulder (arguably to pass slower traffic) where the collision occurred.

Defendant’s Separate Statement of Undisputed Material Facts in support of the instant motion includes one material fact only (which plaintiffs dispute): plaintiffs were traveling on the shoulder to pass stopped vehicles.

2. Legal Principles

A defendant moving for summary judgment bears the burden of persuasion that one or more elements of the cause of action at issue cannot be established, or that there is a complete defense to the cause of action. (*Aguilar v. Atl. Richfield Co.* (2001) 25 Cal.4th 826, 850.) The moving party bears the initial burden of making a prima facie showing of the nonexistence of a triable issue of material fact, and only if the moving party carries the initial burden does the burden shift to the opposing party to produce a prima facie showing of the existence of a triable issue of material fact. (*Ibid.*)

“The court focused on issue finding; it does not resolve issues of fact. The court seeks to find contradictions in the evidence, or inferences reasonably deducible from the

¹ For clarity, the court will refer to the plaintiffs individually by first name only. The court intends no disrespect.

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evidence, which raise a triable issue of material fact.” (*Raven H. v. Gamette* (2007) 157 Cal.App.4th 1017, 1024.) The evidence of the moving party is strictly construed, and the evidence of the opposing party liberally construed. Doubts as to the propriety of granting the motion must be resolved in favor of the party opposing the motion. (*Stationers Corp. v. Dun & Bradstreet, Inc.* (1965) 62 Cal.2d 412, 417.)

3. Discussion

“ ‘The elements of a cause of action for negligence are well established. They are “(a) a legal duty to use due care; (b) a breach of such legal duty; [and] (c) the breach as the proximate or legal cause of the resulting injury.” ’ ” (*Ladd v. County of San Mateo* (1996) 12 Cal.4th 913, 917.)

Defendants’ motion argues the undisputed material facts show that plaintiff Robert breached *his* duty to use due care and caused the accident to occur. (Mtn. at 1:5–8.) Defendants “therefore request the Court grant summary judgment or in the alternative summary adjudication in their favor on the issues of breach of legal duty to use due care and/or proximate cause.” (Mtn. at 1:8–10.)

Defendants’ initial burden, however, is to show that one or more elements of the cause of action at issue cannot be established *against them*, or that there is a complete defense to the cause of action. Defendants’ argument that plaintiff Robert breached his alleged duty of care is not directly relevant; to be sure, a trier of fact can apportion liability to both the plaintiff and defendant. As plaintiffs point out in their opposition, defendants’ motion “omitted any evidence relating to [defendant Chisholm’s] conduct.... [¶] Comparative fault is not appropriate for summary adjudication. An attack on causation requires evidence relating to defendant’s conduct in relation to plaintiffs’ injuries, which is missing.” (Opp. at 2:1–8.)

The court agrees with plaintiffs and finds that defendants have failed to meet their initial burden. Therefore, the motion for summary judgment, and alternatively, the motion for summary adjudication, is denied.

TENTATIVE RULING #12: THE MOTION FOR SUMMARY JUDGMENT, AND ALTERNATIVELY THE MOTION FOR SUMMARY ADJUDICATION, IS DENIED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE

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13.	25CV1225	B.F. vs. El Dorado County Office of Education et al.
Motion Hearing		

On June 30, 2025, Defendant Buckeye Union School District (hereinafter “Defendant”) filed a Notice of Motion and Motion to Strike Portions of Plaintiff’s Complaint. Defendant filed a demurrer to the complaint concurrently therewith. Plaintiff filed oppositions to both motions on October 6th. Each motion and the rulings thereon are addressed below.

Motion to Strike

By way of its Motion to Strike, Defendant seeks to strike page 3, line 21 through page 4, line 2 of the Complaint. Without recounting the entirety of that passage here, the challenged language generally asserts a unity of interest between Defendant, El Dorado County Office of Education (EDCOE), and El Dorado County Special Education Local Plan Area (ESLPA) such that any individuality between them ceased to exist. Given the alleged overlap between each of the foregoing defendants, Plaintiff routinely refers to them as the School Entity Defendants.

Plaintiff opposes the motion arguing that the three entities jointly ran the summer program in which Plaintiff was participating when the sexual assault occurred. In doing so, Plaintiff argues that each School Entity Defendant owed a duty of care to their wards while in their supervision. Moreover, Plaintiff argues that it has not had sufficient time to conduct discovery regarding the relationship of the parties.

“The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: (a) Strike out any irrelevant, false, or improper matter inserted in any pleading. (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.” Cal. Civ. Pro. § 436.

“A motion to strike, like a demurrer, challenges the legal sufficiency of the complaint's allegations, which are assumed to be true. [Citation].” Blakemore v. Sup. Ct., 129 Cal.App.4th 36, 53 (2005). Thus, “[t]he grounds for a motion to strike shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice.” Cal. Civ. Pro. § 437(a).

A Complaint will survive a motion to strike where the allegation in question sets forth “...the essential facts of [the plaintiff’s] case with reasonable precision and with particularity sufficient to acquaint a defendant with the nature, source and extent of his cause of action.” Doheny Park Terrace Homeowners Assn. Inc. v. Truck Ins. Exchange, 132 Cal. App. 4th 1076, 1099

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(2005). Where the defendant has superior knowledge of the facts, a plaintiff may allege facts on information and belief. *Pridonoff v. Balokovich*, 36 Cal. 2d 788, 792 (1951).

Here, Defendant argues that the unity of interest allegation is immaterial and irrelevant. However, it appears the unity of interest claim is the entire basis for Plaintiff's allegation that Defendant owed her a duty of care in the first place. Without this allegation, a number of the causes of action in Plaintiff's complaint essentially fail. Accordingly, the subject language is neither immaterial nor irrelevant.

Defendant further argues that the three School Entity Defendants are sufficiently separate and apart from one another to defeat any unity of interest allegation. It may be true that these types of entities are generally separate and distinct from one another, however, without bringing in improper extrinsic evidence of the actual relationship between these specific defendants, Defendant would need to show that the three cannot, as a matter of law, act as successors-in-interest such that the language in the Complaint would be rendered irrelevant and therefore the proper subject of a motion to strike. Defendant has not made such a showing.

Because the relationship between the defendants, and the extent of each of their involvement in the SELPA is information within the control of Defendant and information that is not contained within the four corners of the Complaint and therefore not properly considered at this stage, the court does find that the allegation of alter ego liability is sufficiently pled. The motion to strike is denied.

Demurrer

Defendant demurs to the second, fourth, fifth, and sixth causes of action in the Complaint on the basis that each fails to state facts sufficient to constitute a cause of action.

A demurrer raises only issues of law, not fact, regarding the form and content of the pleadings of the opposing party. Cal. Civ. Pro. §§ 422.10 and 589. It is not the function of the demurrer to challenge the truthfulness of the complaint, instead, for the purposes of testing the sufficiency of the cause of action, the demurrer admits the truth of all material facts in the pleading but not contentions, deductions or conclusions of fact or law. *Aubry v. Tri-City Hosp. Dist.*, 2 Cal. 4th 962, 966-967 (1992); *Serrano v. Priest*, 5 Cal. 3d 584 (1971); *Adelman v. Associated Int'l Ins. Co.*, 90 Cal. App. 4th 352, 359 (2001).

Failure to plead the ultimate facts supporting a cause of action subjects the complaint to a demurrer. Cal. Civ. Pro. § 430.10(e); *Berger v. Cal. Ins. Guar. Ass'n*, 128 Cal. App. 4th 989, 1006 (2005). However, "[t]o determine whether a cause of action is stated, the appropriate question is whether, upon a consideration of all the facts alleged, it appears that the plaintiff is entitled to

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any judicial relief against the defendant, notwithstanding that the facts may not be clearly stated, or may be intermingled with a statement of other facts irrelevant to the cause of action shown, or although the plaintiff may demand relief to which he is not entitled under the facts alleged.” *Elliot v. City of Pacific Grove*, 54 Cal. App. 3d 53, 56. Otherwise stated, the demurrer is to be overruled if the allegations of the complaint are sufficient to state a cause of action under any legal theory. *Brousseau v. Jarrett*, 73 Cal. App. 3d 864 (1977); see also *Nguyen v. Scott*, 206 Cal. App. 3d 725 (1988).

When a demurrer is sustained but “...the defect raised by ...[the] demurrer is reasonably capable of cure, ‘leave to amend is routinely and liberally granted to give the plaintiff a chance to cure the defect in question.’” *Price v. Dames & Moore*, 92 Cal.App.4th 355, 360 (2001); *Grieves v. Superior Court*, 157 Cal.App.3d 159, 168 (1984).

Second Cause of Action – Vicarious Liability

Vicarious liability is a cause of action whereby the principal is vicariously liable for the actions of its employee so long as the actions are within the course and scope of employment. This theory of liability may be properly applied to public entities, such as public school districts are, in certain instances, liable for an act or omission of their employee. Gov’t Code § 815.2; See also *C.A. v. William S. Hart Union High School Dist.*, 53 Cal. 4th 861, 879 (2012). Nevertheless, for liability to flow to the employer, the act must be within the course and scope of employment.

The law in this area is clear that employers are not strictly liable for all actions of their employees during working hours. *Alma W. v. Oakland Unified School Dist.*, 123 Cal. App. 3d 133 (1981). “If an employee substantially deviates from his duties for personal purposes, the employer is not vicariously liable for the employee’s actions. [Citations.]” *Id.* at 139.

Whether an action falls within the course and scope of employment is generally a question of fact. However, it becomes a question of law “where the undisputed facts would not support an inference that the employee was acting within the scope of his employment”. *John R. v. Oakland Unified School Dist.*, 48 Cal. 3d 438 (1989).

Defendant demurs to this cause of action on the basis that there is no allegation that Mr. Manasrah was an employee of the school district and, even if such an allegation were made, Mr. Manasrah was not acting in the course and scope of his employment when engaging in the sexual assaults.

The court does not find much credence in Defendant’s argument that the Complaint does not allege an employment relationship between Mr. Manasrah and Defendant simply because the Complaint does allege that each of the School Entity Defendants were acting as

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agents and successors in interest with one another to the extent that they were essentially interchangeable. It further alleges an employment relationship between Mr. Manasrah and EDCOE, Defendant's alleged successor-in-interest. More convincing, however, is Defendant's argument that Mr. Manasrah acted outside the course and scope of his employment.

Highly relevant to the facts before the court is the matter of *John R. v. Oakland Unified School Dist.*, 48 Cal. 3d 438 (1989). As recounted by both parties in their briefs, the matter of *John R.* involved the sexual molestation and rape of a student by his teacher while participating in an officially sanctioned school activity. Plaintiff attempts to distinguish *John R.* by arguing that the teacher in that case was "off-duty...[and]...in his own home" but this is not entirely correct. In fact, *John R.* was participating in "the school's instructional, work-experience program..." which took place at the teacher's home as was "...authorized by the district." *John R.* at 442. Thus, the teacher was not "off-duty" and while the assault did occur in the teacher's home, it was an authorized location for the school activity.

The court in *John R.* declined to find vicarious liability stating that "[a]lthough it is unquestionably important to encourage both the careful selection of these employees and the close monitoring of their conduct, such concerns are, we think, better addressed by holding school districts to the exercise of due care in such matters and subjecting them to liability *only for their direct negligence in that regard.*" *John R.* at 451 (emphasis added).

Also on point is the matter of *Alma W. v. Oakland Unified School Dist.*, 123 Cal. App. 3d 133, 138 (1981), where the perpetrator of the sexual assault was the school janitor. The court in *Alma W.* found that the sexual assault was neither required by, nor incidental to, the janitor's job duties. "The fact the offense occurred during working hours did not make the custodian's duties incidental to his employment, and although his use of the janitor's office arguably furnished a unique opportunity for his action, the fact alone did not impute liability to the district." *Alma W.* at 136.

Similar to the janitor in *Alma W.*, Mr. Manasrah was akin to a school bus driver who was in charge of transporting the children to and from school. Though the sexual assault occurred in his employer provided van and during his work hours, under the *Alma W.* ruling, those facts alone are not sufficient grounds to hold his employer vicariously liable. The complaint does make the blanket assertion that Mr. Manasrah "was in the course and scope of his employment" but the court is not to take mere deductions or conclusions of fact or law as true when ruling on a demurrer. *Aubry v. Tri-City Hosp. Dist.*, 2 Cal. 4th 962, 966-967 (1992); *Serrano v. Priest*, 5 Cal. 3d 584 (1971); *Adelman v. Associated Int'l Ins. Co.*, 90 Cal. App. 4th 352, 359 (2001).

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For the reasons stated above, the demurrer as to the second cause of action is sustained. While case law seems rather definitive, that sexual acts do not fall within the course and scope of employment, the court, out of an abundance of caution, is granting leave to amend no later than October 31, 2025.

Fourth Cause of Action – Negligent Hiring and Retention

Generally speaking, an employer can be liable for negligent hiring and retention where the employer knew or should have known that hiring the employee created a particular risk or hazard. *McKenna v. Beesley*, 67 Cal. App. 5th 552 (2021). As evidenced by its name, such a claim requires the existence of an employer-employee relationship. *See generally* *Phillips v. TLC Plumbing, Inc.*, 172 Cal. App. 4th 1133, 1139 (2009).

Here, while it is true that the complaint does not allege that Defendant directly hired Mr. Manasrah, it does allege that Mr. Manasrah was an employee of EDCOE and that EDCOE was an alter-ego, agent, joint venturer, etc. of Defendant such that the parties are jointly liable for the actions of one defendant. Given the alleged relationship between the defendants and EDCOE's employment relationship with Mr. Manasrah, the court does find the complaint pleads facts sufficient to constitute a cause of action for negligent hiring and retention. The demurrer is overruled as to the fourth cause of action.

Fifth Cause of Action – Negligent Failure to Warn, Train, Educate, or Protect

Defendant focuses its demurrer to this cause of action on the basis that there is no duty to "warn, train, or educate" however, Defendant fails to address a duty to protect as is also alleged in the complaint. As discussed above, "[t]o determine whether a cause of action is stated, the appropriate question is whether, upon a consideration of all the facts alleged, it appears that the plaintiff is entitled to any judicial relief against the defendant, notwithstanding that the facts may not be clearly stated, or may be intermingled with a statement of other facts irrelevant to the cause of action shown...." *Elliot v. City of Pacific Grove*, 54 Cal. App. 3d 53, 56.

Here, the fifth cause of action asserts a claim for failure to protect. Because there exists a special relationship between a school district and its students, there is a "...duty of care owed by school personnel...[which includes]...the duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting negligently or intentionally,' including 'injuries to a student resulting from a teacher's sexual assault.' [Citations.]" *Doe v. Lawndale Elementary School Dist.*, 72 Cal. App. 5th 113, 126 (2021).

Taking the facts alleged in the complaint as true, the court does find that the complaint sufficiently establishes a special relationship between Plaintiff and Defendant thereby giving rise

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to a duty to protect. Specifically, the Complaint states “Plaintiff B.F. was placed in the summer program pursuant to his individualized education program (“IEP”) overseen by BUCKEYE.” Comp’l, p.5:2-3. As such, the demurrer to the cause of action is overruled.

Sixth Cause of Action – Sexual Harassment Civil Code § 51.9

Plaintiff does not oppose the demurrer as to this cause of action. Therefore, the demurrer is sustained without leave to amend as to the Sixth Cause of Action – Sexual Harassment Civil Code § 51.9.

TENTATIVE RULING: THE MOTION TO STRIKE IS DENIED. THE DEMURRER IS OVERRULED AS TO THE FOURTH AND FIFTH CAUSES OF ACTION. THE DEMURRER IS SUSTAINED AS TO THE SECOND CAUSE OF ACTION. PLAINTIFF IS GRANTED LEAVE TO AMEND THE SECOND CAUSE OF ACTION NO LATER THAN OCTOBER 31, 2025. THE DEMURRER IS SUSTAINED WITHOUT LEAVE TO AMEND AS TO THE SIXTH CAUSE OF ACTION.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.